



Land Use and Zoning Meeting Minutes

June 25, 2009

STAFF:	David Radachy
DATE:	June 30, 2009
APPROVED BY:	<i>ju3</i>

The Land Use and Zoning Committee hereby finds and determines that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 6:30 p.m. by Chairman Terriaco.

Attendance was taken by sign in sheet. The following members were present: Messrs. Hullihen, Kenyon, Morse, Terriaco, and Welch, and Ms. Diak. Staff: David Radachy.

Mr. Terriaco asked for any comments from the public. Nobody from the public was in attendance.

Mr. Terriaco asked Mr. Radachy to present the cases.

There are eight cases.

Madison Township- Text Change, Adding S-1, Special, as a district requiring submission of a site plan

Staff stated that S-1 was being added as a district requiring site plan review. Madison Township Zoning Commission decided to add this language after a recent zoning district change. Staff stated that was the zoning case reviewed last month. It involved 100 acres of land that was located on Wood Road and involved land that was zoned A-1 and M-1 and the request was for it to become S-1. The property owner wished to have recreational uses on the property. Staff recommended that language be accepted.

Mr. Hullihen made a motion to recommend that the text change be accepted.

Mr. Welch seconded the motion.

All voted "Aye".

Motion passed.

Perry Township- Text Change Sections 100 and 200

Staff stated that this text and the next six text changes are part of a complete overhaul of the Perry Township Zoning Resolution. There were approximately 137 changes from the current regulations, including 53 new sections, 29 revised sections, and sections where a couple of words were added or deleted, but did not lose the original intent. There were 21 sections moved, 27 sections that were deleted, and 7 sections that were completely replaced with new language. Those sections original meanings were replaced with new intentions.

Staff stated that they reviewed the proposed text and compared it to the existing text. The main change to the text was that Perry Township was going to a table format for permitted uses, design standards, parking and signs. This would make the text more user friendly. In reviewing the text, staff noted a couple of issues that went throughout the text. Terms in the text were not consistent throughout the resolution. For an example, the resolution uses the term "Township Fire Chief" and Perry Township does not have a Township Fire Chief. There is a Joint Fire District Chief. Or, the resolution uses "Places of Worship" in Sections 301.02 and 302.02, but it uses "Church" in the adult uses. Changing district name in one section and calling it the original name; SR in section 300, but R in the Parking Chapter.

Staff stated that there is no mention of amendments in section 100.03, Effective Date. The Zoning Commission should consider adding language such as "This Zoning Resolution and any Amendments to it shall become effective...". In Section 100.07, the regulations allow lot lines to be boundaries of zoning districts. There is no definition of lot line. One should be created. In Section 100.07, the regulations allow natural boundaries to be boundaries of zoning districts. Natural features such as streams and rivers will move. Staff recommended not using them to be boundaries for zoning districts. Township border could be used as a zoning district boundary. Staff recommended adding it to Section 100.07.

Staff stated that one of the Zoning Inspector's duties is to inspect the township periodically. They felt that this should remain, BUT it is currently being removed. Staff stated that the zoning resolution should re-state the language that the "Zoning Inspector has 3 days to review the application" from Section 201.02 A in Section 202.03. In Section 203.01, enlarging a structure requires a zoning permit, should not be mentioned in the Occupancy Certification Section.

Staff felt that there would be a cost issue with the way new site plan requirements were written. Under the new rules, sheds will be required to have a site plat that is drawn by a surveyor or engineer. This will increase the cost of putting up a 10 x10 shed. Staff suggests exempting small sheds with less than 100 square feet from this rule. A couple members felt that 10x10 was too small. Many communities would only require an air photo with the new accessory building be scaled in order to meet the requirement. Staff asked if anybody had a suggestion on size, or if all accessory buildings be exempted from this requirement. None of the committee members had a suggested minimum, but they agreed that small accessory buildings be exempted from being drawn by surveyor or engineer, but the maximum size of that limitation should be bigger than 100 sq. ft.

Staff stated that Ohio EPA is the agency that approves septic systems for commercial and industrial uses in Section 204.05 B (14). Cross-reference Section 203, Site Plan, and Section 204.07, Conformance with Approved Site Plans. One year may be too short of a term for an alternate to serve. The Township may want to consider a longer term. The Committee also felt that one year is not a long enough term. There is a chance that the alternate may not be called for a meeting. The Committee felt that regular term would be appropriate.

Staff went on to state that the Zoning Commission needs to take action on text amendments to their duties listed in 205.05 B. The zoning resolution should consider adding language to give an assistant zoning inspector the same powers as the zoning inspector and that an assistant zoning inspector is included in the Compensation Section. Staff stated that Perry Township did not have an assistant zoning inspector currently, but they may want to add one in the future. Mr. Welch believed that Sandra Mack was the assistant zoning inspector. Staff stated if there is an assistant, then there is more reason to add language describing their duties.

Mr. Morse made a motion to recommend the text changes with staff recommendations with an increase on the size of accessory building that would be exempted from submitted site plans.

Mr. Hullihen seconded the motion.

All voted "Aye".

Motion passed.

Perry Township, Section 300

Staff stated that changing the name of R to SR and B to B-1 may require a district change on the map. This may require a public hearing and public notice. In Section 300.01 and in Section 301.02, the districts are listed ER-1, ER-2, ER-3. In Section 301.01, the districts are listed as ER-3, ER-2 ER-1. The districts should be in the same order throughout the text. A footnote should be made on the permitted use chart on 301.02 that open space developments are permitted with approval of the trustees. Staff also stated that he was not sure why open space development was still an option. It has not been used anywhere in the Township. The district allows the owner to have $\frac{3}{4}$ acre lots, which are the same size as a normal R lot and the owner would be required to provide open space. Most developers would use the SFPUD option before they would use this option.

Staff stated that the Township should consider allowing recreation camps in the Lakeshore Residential District and should consider allowing Private Recreation as a conditional use in all districts. In Section 301.02 the zoning text should reference the 2008 Ohio School Design Manual (OSDM), not state curriculum standards. Staff asked if Wind Turbine Energy Devices were meant to be Conditional Permitted or conditional accessory uses? Currently, they are conditionally permitted, so they could be considered a main structure. Does Perry want to allow these uses by themselves?

Staff stated that there was a reduced frontage requirement for ER-3 to 150 feet from 200 feet, but he felt that this may have been a mistake. The lot width was left at 200 feet. Staff recommends that the frontage of ER-3 should remain 200 feet. Changing it would create non-conforming uses.

Staff recommended adding foot note (c) to ER-1, ER-2, ER-3, B-1, B-2, I-2, and I-3. This would require all districts to have minimum front setback of 115 feet from Lane Road. Land along Lane Road may be rezoned to any district in the future. I-2 was a special concern because rezoning to I-2 is the first step in getting CCOD in place.

In Section 301.03 and Section 302.03, staff recommends continuing to use the term safety separation instead of minimum setback from gas or oil well. The term ties in better for health and safety.

Section 301.04 B, Road Side Stands: The Township should research this section to make sure it's in conformance with ORC 519.21 C., which only requires 50% of the gross income of farmers markets to come from product grown on site. The requirement that sale of agricultural products be produced on the premises may not be in conformance with State Law. This concern is similar a concern staff had with similar language from Leroy Township. The Committee agreed that most farmers have to bring in products from other farms in order to have a variety of products. Most farmers do not grow a variety of products that they sell.

Staff stated that any home occupation will increase the traffic of the neighborhood. Volume greater than normally would be expected in a residential neighborhood was too open ended. This issue was a concern last month with the Leroy Township text. Jeff Keynon stated that Leroy Township Zoning Commission removed the text.

Staff stated that many of the uses listed in permitted use tables were not defined in section 700. Staff stated all uses should be defined. Staff also suggested using "Print or Publishing", "Heavy Manufacturing, Processing Fabrication or Assembly", "Storage of Fireworks or Explosives". The Term "and" requires all elements to be present.

Staff wonder why 44,000 sq. ft. instead of one acre? 44,000 sq. ft. equals 1.0101 acres. Staff suggested using one acre instead of 44,000 square feet. Are single-family homes that are permitted in B-1 going to be required to have a minimum lot size of 44,000 sq. ft? Or will they be allowed to use the minimums of SR district?

A footnote should be added to lot size that states that lot size shall conform to 302.04(A), which requires that all lots using a reduced frontage and regular lot width would be required to meet minimum lot size using only the land where it meets minimum lot width.

Staff stated that the front setback for I-3 is 70 feet and but the corner setback is 50 feet. These two setbacks should be equal. A side yard setback on the side that is adjacent to residential is 100 feet while a rear line setback adjacent to residential is only 25 feet. When adjoining residential, the setbacks should be 100 feet. The Committee asked what the current regulation was. Staff stated that the building had be 100 feet from a sideline when adjacent to residentially zoned land and 25 feet when adjacent to other uses. The building had to be 25 feet from any rearline. Staff was suggesting requiring the building to be 100 feet from the rearline when the land was zoned residentially. There was some concern about taking land area from commercial and industrial uses. There is enough restrictions on business already.

Staff discussed the transition buffer and how there is no requirement on not allowing structures or parking in the transition buffer. Are structures and parking allowed in the transition buffer? Some members of the committee felt that parking should be allowed in the transition buffer.

Staff stated that in section 302.07, the Township was stating morals as a reason for providing regulations on adult businesses. The Township may adopt a zoning resolution "in the interest of the public health and safety" (519.02). Morals were eliminated in 2005, so morals should be removed from 302.07 A. In section 302.07 C (1), the Township has the terms "church, synagogue, temple or other place used primarily for religious worship", while Sections 301.02 and 302.02 uses the term places of worship. Please use one term. In Section 302.07 C, please consider not allowing an adult business within 500 feet of a residentially zoned district and 500 feet of a day care center. Section 302.07, Adult Uses, could also address parking and signs for the use. It could also be done as a conditional use approved by the BZA.

Section 303.03, Continuing Care Overlay, was established using ORC 519.021, Planned Unit Development Regulations. It should be added to Section 304.

Staff stated their concerns about Sections 303.05 K and 304.05 F, Architectural Design Standards. ORC 519.02 allows the Township to establish reasonable landscape and architectural standards excluding exterior building materials. Stating that exposed foundation shall be covered with brick, stone, or other materials approved by the Township may not comply with ORC 519.02. Staff recommended removing the standards.

Staff recommended that Places of Worship should be conditionally permitted because schools are conditionally permitted. This would be consistent with RLUIPA.

Staff suggested the following language for section 304.06 D, Setbacks and Separation. Single Family Planned Unit Development may be on individual lots ***if the lots are divided in accordance with 711.05, 711.09, 711.10, 711.131 or 711.133...*** Staff explained that these sections of the Ohio Revised Code gives authority to the counties to review and approve divisions of land. Currently, Lake County has subdivisions regulations adopted under ORC 711.10 and staff approves lot splits under the authority of 711.131 and 711.133.

Section 304.12, Fees and Deposits. 304.12 C requires that funds should be deposited with the township for inspections prior to the start of construction. The County Engineer and the Sanitary Engineer require this same action for roads, storm sewers, sanitary sewers and/or waterlines. The Township should state which improvements they are inspecting. It is important not to duplicate inspections and township may not have the power to inspect public roads or sanitary sewers.

Mr. Hullihen made a motion to recommend the text amendment with staff's recommendations.

Mr. Kenyon seconded the motion.

All voted "Aye".

Perry Township, Section 400

Staff stated that sections 401.02 A and B, state the same requirement, that any fence within the front setback could not exceed 42 inches. These two sections should be combined. Staff also stated that fences in Residential Districts do not have height restrictions or setback requirements for fences. Staff recommended that height limits be added. The common height limits were 6 to 8 feet.

The Township is adding language that would allow construction trailers when new structures are being built. There is a statement that requires the trailers be removed right after the project is completed. Staff is recommending that a setback for the trailers be required. That way they can be kept out of the right-of-way.

Staff stated that section 404, Satellite Dishes, should have standards included in the Conditional Use Section.

Staff stated that that all permitted uses in Sections 301.02 and 302.02, Definitions in Section 700 and Uses listed in the Parking Standards Table are all consistent with one another. For example, the Parking Table lists Day Care Center and the Permitted Use Table is Adult or Child Day Care Center. Single-Family Dwelling is listed in the Parking Table, but the definition is Dwelling, Single-Family Detached. There are also many permitted use and conditional use categories that are missing from the Parking Standards Table. They need to be added with a parking standard.

Staff stated that putting size limitations and limits on the number of sale/rent/opinion signs may be a violation of freedom of speech. Please have your legal advisor take a look at this issue. The City of Painesville was taken to court and lost on this issue.

Staff suggested adding the following language to footnote (e) of section 409.07: During construction or reconstruction of a building ***"if a valid building permit has been obtained"***. They also suggested

that free standing signs should be required to have a 10-foot setback off the 100- foot transition buffer. This language could be added section 409.08.

Mr. Kenyon made a motion to recommend the text changes with staff's recommendations.

Mr. Hullihen seconded the motion.

All voted "Aye". Motion passed.

Perry Township Section 500

Staff stated that the zoning permit requires that construction start within one year and be completed within two years. This same requirement should be included in Section 500. Currently there is no requirement. Staff stated that ORC 519.19 gives an owner a two-year period to stop a use and then restart it if it is non-conforming. The Township should follow the same standard for conditional use and change the period from one year to two years in Section 500.05. The conditions for Sand, Gravel, and Earth Removal may not be in compliance with ORC 519.141. Please review this section to make sure that the Township is in compliance.

Currently, wind turbines would be a conditional permitted use, which would let it be done without another structure on the property. Does the Township wish to allow this use as a conditional permitted use? Staff stated that conditions must be created for Colleges, Museums, Libraries and Places of Worship. Standards for junkyard, house trailers, heavy industry, rubble, and auto body shops should be returned to the zoning resolution. Staff asked if there were any junk yards in Perry Township. Mark Welch stated yes. Staff stated if junk yards were removed, then they would become non-conforming. Staff also stated that auto body shops were being removed from the conditional use chapter and how he was not sure if Vehicle, Machinery, and Equipment Sales, Rental, Services, and Repair would cover this use. It is a very common use and it fits nicely in an industrial or heavy commercial zone.

Mr. Morse made a motion to recommend the text changes with staff's recommendations.

Ms. Diak seconded the motion.

All voted "Aye". Motion passed.

Section 600 and 700

Staff suggested adding the following language to Section 600.04, "Nonconforming Lots: ...then the lot may be used as if its area, **width, and frontage** were conforming". Staff also recommended that prohibited uses should remain in the zoning text. These uses are good uses to prohibit. They include Junk and Rubbish, Manufactured Housing, Penal Institutions, Building Materials, Tents, Inoperative Vehicles, Stockyards and slaughterhouses, Vehicle Racing, Overcrowding, Radioactive Waste and Commercial Incinerators.

Staff stated all permitted, conditional and accessory uses be defined. The following uses need to be defined: Places of Worship, Sand, Gravel and Earth Removal, College, University, Public Library, Museum, Township Cemeteries, Service Facilities, Public Parks, Playgrounds, Recreational Facilities, Recreation Camp, Private Recreational Facilities, Public or Private Schools, Roadside Stands,

Farm Markets, Bed and Breakfasts, Wind Turbine Energy Devices, Accessory Buildings, Swimming Pools, Offices, Medical Offices, Personal Services, Retail Stores, Banks, Financial Services, Restaurants Coffee Shops, Public Service Facilities, Child Day Care Facilities, Adult Day Care Facilities, Vehicle, Machinery, and Equipment, Sales, Rental, Service and Repair, Commercial Recreation, Entertainment Facilities, Wholesale Business, Hardware, Building Supply Stores, Lumber Yards Grocery Stores, Food Stores, Dry Cleaners, Laundries, Gasoline Stations, Gymnasiums, Athletic Facilities, Fitness Centers, and Health Spas.

Mr. Morse made a motion to recommend the text changes with staff's recommendations.

Ms. Diak seconded the motion.

All voted "Aye". Motion passed.

Mr. Terriaco asked if there was any new business.

Staff said stated that next meeting may be on Tuesday July 23 instead of July 25 because the Planning Commission may be meeting on July 25.

Mr. Terriaco asked if there was any old business.

There was none.

There was no public present for the second public comment.

The meeting was adjourned at 7:20 PM